

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2007-111-C - ORDER NO. 2007-393
JUNE 4, 2007

IN RE: Joint Application of Startec Global)	ORDER APPROVING
Communications Corporation and Startec)	RESTRUCTURING
Global Operating Company for Authority)	
Nunc Pro Tunc for a Pro Forma Corporate)	
Restructuring.)	

This matter comes before the Public Service Commission of South Carolina (the Commission) on the Joint Application of Startec Global Communications Corporation (SGCC) and Startec Global Operating Company (Startec) for authority *nunc pro tunc* for a *pro forma* corporate restructuring completed on December 27, 2006, and involving Startec Global Licensing Company (SGLC), which the Commission authorized to provide telecommunications services. Startec is a wholly-owned subsidiary of SGCC. SGLC, an entity that was also 100% owned by SGCC, and which originally held the Certificate granted by the Commission, was merged with and into Startec, with Startec surviving. As a result of the merger, SGLC ceased to exist and Startec became the operating telecommunications service provider in South Carolina. All the telecommunications assets of SGLC, including its Certificate, were transferred to Startec as a result of the merger. Upon completion of this *pro forma* corporate restructuring, Startec also assumed the customers and operations of SGLC.

Pursuant to the instructions of the Commission's Docketing Department, Startec published a Notice of Filing in the areas served by it and furnished affidavits to show that it had complied with those instructions. No Petitions to Intervene or Protests were filed.

Subsequently, Startec filed the verified testimony of Robert Felgar and requested that the Commission consider this matter at the weekly agenda meeting scheduled for May 16, 2007. We interpret this request as a Motion for Expedited Review and grant it. We will therefore consider this matter in a summary fashion.

Robert Felgar, General Counsel and Secretary of both SGCC and Startec (together, Startec), testified that a *pro forma* corporate restructuring was completed on December 27, 2006, in which the original Certificate of Public Convenience and Necessity holder SGLC merged into Startec. As a result of the merger, SGLC ceased to exist and Startec became the operating telecommunications service provider in South Carolina. All the telecommunications assets of SGLC, including the above-mentioned Certificate, were transferred to Startec as a result of the merger. Upon completion of this *pro forma* restructuring, Startec also assumed the customers and operations of SGLC.

Felgar noted that on the advice of outside consultants, Startec planned to characterize this transaction as a change in carrier name. Startec and SGCC now understand that Commission approval is necessary for this type of *pro forma* restructuring because a new entity will provide service in South Carolina. As a result, Startec and SGCC filed their Application immediately after learning that Commission authorization is required. Both Companies request that the Commission approve the Application on a *nunc pro tunc* basis. According to Felgar, this change has not resulted

in confusion or inconvenience to its customers or any change in the service they receive. Felgar further notes that the *pro forma* changes were undertaken to streamline and eliminate inefficiencies from the business and administrative operations of SGLC and Startec.

Thus, to the extent required, the Applicants request that the Commission authorize the *pro forma* restructuring on a *nunc pro tunc* basis, including the merger of Startec and SGLC and the resulting transfer of the South Carolina telecommunications assets of SGLC to Startec.

The testimony notes that the transaction was strictly *pro forma* in nature, although it resulted in a change in the entity authorized to provide telecommunications service in South Carolina. According to the witness, the change did not adversely affect the provision of telecommunications services in South Carolina. There was no change in the ultimate ownership or control, or in the management or day-to-day operations in South Carolina as a result of the transaction. Service is provided using the same network, billing systems, and customer service operations used by SGLC. Further, the same management team is in place. In addition, customers are provided service pursuant to a Customer Service Agreement posted on Startec's website and tariffs that offer all of the services offered by SGLC, as applicable, under the same rates, terms, and conditions. To the extent necessary, Startec will file tariffs to incorporate the rates, terms, and conditions offered.

According to the testimony, Startec has the same financial, technical, and managerial qualifications to operate in South Carolina as SGLC. Startec offers the same

products and services as SGLC. Startec's tariff will also mirror the tariff of SGLC, and if necessary, Startec will resubmit such tariff upon approval of the Application. Further, the key managerial and operational personnel that served SGLC will also serve Startec.

Felgar testified that the *pro forma* corporate restructuring was consistent with the public interest since Startec continued, without interruption or change, the competitive operations of SGLC in South Carolina. Further, Felgar noted that the *pro forma* restructuring was completed in a fashion that did not adversely affect the provision of telecommunications services in South Carolina or result in any disruption or alteration of services. According to Felgar, the *pro forma* restructuring was merely an internal corporate transaction that was transparent to consumers and has not in any way inconvenienced or caused harm to consumers.

The Office of Regulatory Staff (ORS) does not oppose the request. ORS states that it has reviewed this matter with counsel of record for the companies and understands that the new entity will assume all financial liabilities with regard to gross receipts and Universal Service Fund support of Startec Global Licensing Company in South Carolina.


Furthermore, Startec Global Communications Corporation agrees to adopt the current tariffs of Startec Global Licensing Company. As a prerequisite of offering prepaid calling cards or prepaid long distance services, the Company will post and maintain with the Commission a surety bond in the amount of \$5,000. The Company agrees to participate in the support of universally available telephone service at affordable rates and to comply with the verification regulations governing change of preferred interexchange carriers as established by the Federal Communications Commission (FCC). The

Company also agrees to comply with the marketing practices and guidelines established in Order Nos. 95-658 and 95-933. In sum, ORS does not object to the relief sought as long as these conditions are included.

Based upon the record before us, we approve the *pro forma* corporate restructuring completed on December 27, 2006, *nunc pro tunc*, and approve the transfer of the Certificate to the new entity. We believe that the restructuring was merely *pro forma*, in that the Applicants shared the same management team, the same network, the same billing systems, and the same customer service operations. Further, we do not believe that the old Company's customers were disadvantaged by the restructuring. The new Company is essentially the old Company. The new Company is subject to all of the conditions that the old Company was subject to, including those described above by the ORS. Further, the new Company shall file a new tariff reflecting the new name within thirty (30) days of its receipt of this Order.

This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:



G. O'Neal Hamilton, Chairman

ATTEST:



C. Robert Moseley, Vice Chairman

(SEAL)